UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
BORLINGHAUS, JASON M

ART UNIT	PAPER NUMBER
3628	

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)
Office Action Summary		09/788,132	SELLERS ET AL.
		Examiner	Art Unit	
		Jason M. Borlinghaus	3628	t

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 April 2005*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-13* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>04 June 2001</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

S.2-2-05

DETAILED ACTION

Claim Objections

Claim 13 is objected to because of the following informalities: improper

dependent claim. Claim 13 cites itself as a further limitation of Claim 11, and not

Claim 12. Claim 13 cites actual workout types that are listed on the "menu of

predefined loss mitigation loan workout types". Claim 12, not Claim 11, claimed

the "menu of predefined loss mitigation loan workout types".

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1,

148 USPQ 459 (1966), that are applied for establishing a background for

determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 1-3, 5, 6-8 and 10-11 rejected under 35 U.S.C. 103(a) as being

unpatentable over Dhar (US PG Pub. 2002/0040339 A1) in view of Myers (TA

Myers & Co. *Real Estate Problem Loans: Workout Strategies and Procedures.*

Dow Jones-Irwin. 1990. pp. 5 – 30) and Litton (Litton, Larry B. *The Return of*

Loss Mitigation. Mortgage Banking. Washington, DC. vol. 57, iss. 8. May 1997.

pp. 60-65).

Regarding Claim 1, Dhar discloses a system comprising:

- a network of personal computers (clients) connected into a network

  administered by a central server computer (web server). ("The web

  server is <u>in network communication</u> with the Internet. The web

  server provides the Internet interface for the client's web browser.

  Specifically, the web server hosts dynamic web pages and provides

  an <u>interface for clients to interact with the application server</u> and the

  database server." - see page 1, paragraph 0017);

- each personal computer in the network including a network

  interface for transmitting borrower inputs to, and receiving outputs

  from, the server computer. ("Each request from the client proceeds

  through the web server, which <u>transmits the required information to</u>

  <u>the application server</u>." – see page 1, paragraph 0018. "Assuming

  that the borrower scores high enough to qualify for one or more of

  the instant offer loans, the system compiles a list of instant offers

  for that consumer and displays them on a web page for the

  consumer's review." – see page 9, paragraph 0104);

- each personal computer in the network further including display

  screens for receiving inputs from, and providing outputs to, a

borrower, including inputs and outputs relating to a proposed loan.

("...a website interface providing a credit application form for a

consumer to complete, the website interface providing a field for the

consumer to select a category of loan offerings.." – see Claim 1. A

display screen would be inherent in collecting input through a

website interface. "Assuming that the borrower scores high enough

to qualify for one or more of the instant offer loans, the system

compiles a list of instant offers for that consumer and displays them

on a web page for the consumer's review." – see page 9, paragraph

0104);

- the central server computer (application server) having a central

  processing unit (workflow/decision engine) that runs automatic loan

  decision analysis software wherein the analysis software analyzes

  information relating to the loan and other information. ("When the

  lending institution receives the application data, the back-end loan

  workflow engine is activated instantly to perform automatic decision

  analysis for credit scoring, ratio analysis and other credit checks to

  meet the selection criteria of each financial institution." – see page

  4, paragraph 0041. "The workflow engine accepts web-based loan

  applications, processes the loan applications programmatically, and

  renders a loan decision within seconds." – see abstract); and

- the central server computer transmitting to the financially troubled

  borrower, automatically over the network, approval of the proposed

loan if certain predefined parameters (checklists) are met and, if the

predefined parameters are not met, providing further instructions to

the financially troubled borrower. ("The workflow engine uses

checklists to evaluate loan applications." – see abstract. "If the bank

rejects the application, a rejection notice is sent to the applicant." –

see page 9, paragraph 0100).

Dhar does not teach a system comprising:

- inputs from and outputs to, a financially troubled borrower, including

  inputs and outputs relating to a proposed loss mitigation workout;

- automatic loan workout decision analysis software wherein the

  analysis software analyzes information relating to a preexisting loan

  whose terms are not being met by the financially troubled borrower

  and other information relating to why the troubled borrower is

  financially troubled to determine whether to approve the proposed

  loss mitigation loan workout; and

- approval of the proposed loss mitigation loan workout.

Myers discloses a system comprising:

- inputs from and outputs to, a financially troubled borrower, including

  inputs and outputs relating to a proposed loan workout;

- loan workout decision analysis wherein the analysis analyzes

  information relating to a preexisting loan whose terms are not being

  met by the financially troubled borrower and other information

relating to why the troubled borrower is financially troubled to

determine whether to approve the proposed loan workout; and

- approval of the proposed loan workout. (see Uniform Approach to

Loan Workouts, page 5 – 30, in which Myers establishes the inputs,

outputs, analysis and decision process, and implementation for

loan workouts).

Litton discloses a system comprising:

- inputs from and outputs to, a financially troubled borrower, including

inputs and outputs relating to a proposed loss mitigation workout.

("Recognizing the lack of available technology to support loss-

mitigation efforts, in 1995 Litton began developing proprietary

software, RADAR, and implemented it in 1996. The system

automates the process and prepares a complete financial analysis

based on given assumptions...The system interfaces with data

sources that provide current property values so that calculations will

consider the most likely sales price and marketing time should the

property go to foreclosure and become owned real estate. The

system also interfaces with credit bureaus, property inspection

companies and title information sources." – establishing receiving

inputs and inherently generating outputs);

- automatic loan workout decision analysis software wherein the

analysis software analyzes information relating to a preexisting loan

whose terms are not being met by the financially troubled borrower

and other information relating to why the troubled borrower is

financially troubled to determine whether to approve the proposed

loss mitigation workout. (supra); and

■ approval of the proposed loss mitigation workout. (supra).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to have modified Dahr by incorporating loan workout

analysis, as disclosed by Myers, and loss mitigation analysis, as disclosed by

Litton, to combine previously established loan-related analyses and processes

into an automated system. Furthermore, it would have been obvious to one of

ordinary skill in the art at the time the invention was made to have automated

these processes, since it has been held that broadly providing a mechanical or

automatic means to replace manual activity that accomplishes the same result

involves only routine skill in the art. *In re Venner*, 120 USPQ 192.

Regarding Claim 2, Dhar discloses a system, wherein the personal

computers are connected into the network using an Internet connection. ("The

web server is in network communication with the Internet. The web server

provides the Internet interface for the client's web browser. Specifically, the web

server hosts dynamic web pages and provides an interface for clients to interact

with the application server and the database server." - see page 1, paragraph

0017).

Regarding Claim 3, Dhar discloses a system, wherein the network

interface is web-based. ("The web server is in network communication with the

Internet. The web server provides the Internet interface for the client's web

browser. Specifically, the <u>web server hosts dynamic web pages and provides an</u> <u>interface for clients</u> to interact with the application server and the database server." - see page 1, paragraph 0017).

Regarding Claim 5, Dhar discloses a system, wherein if the user inputs fail to satisfy predetermined guidelines (checklists), the user receives a message informing the user that the system cannot be used. ("Rejection notice sent to applicant" – see figure 7, 114, 116, 118 and 120).

Regarding Claims 6 – 8 and 10, further method claims would have been obvious from system claims rejected above, Claims 1 – 3 and 5, respectively, and are therefore rejected using the same art and rationale.

Regarding Claim 11, further apparatus claim would have been obvious from system claim rejected above, Claim 1, and is therefore rejected using the same art and rationale.

Claims 4, 9 and 12 - 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dhar, Myers and Litton, as in Claim 1, 6 and 11 above, in further view of Fletcher (US Patent 6,112,190).

Regarding Claim 4, neither Dhar, Myers nor Litton teach a system, wherein:

- the user selects a workout type among a menu of predefined workout types.

Boynton discloses a system wherein:

- the user utilizes selects a analysis type among a menu of predefined analysis types (pulldown menu – see figure 14).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Dhar, Myers and Litton by incorporating a menu of predefined analysis types, as was done by Fletcher, to streamline the web-based interface for the system.

Regarding Claim 9, further method claim would have been obvious from system claim rejected above, Claim 4, and is therefore rejected using the same art and rationale.

Regarding Claim 12, further apparatus claim would have been obvious from system claim rejected above, Claim 4, and is therefore rejected using the same art and rationale.

Regarding Claim 13, Dahr does not teach a medium wherein a selected workout type is a Repay/Forbear workout type, a Borrower Assistance Program workout type, or a Loan Modification workout type.

Myers discloses a Repay/Forbear workout type (payment modification, removal of borrower: foreclosure – see pp. 18 – 23) and a Loan Modification workout type (payment modification, loan modifications, extensions of loan maturity – see pp. 18 – 21).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Dhar, Myers and Litton by incorporating a menu of predefined analysis types, as was done by Fletcher, to streamline the web-based interface for the system and to populate that menu with common workout types such as a Repay/Forbear and Loan Modification workout types, as

discussed by Myers, to provide simple and easy access to common workout

types.

Response to Arguments

Applicant's arguments with respect to Claims 1 - 10 have been considered

but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure. The references cited to (*LOGS Goes Online with Loss*

Mitigation. National Mortgage News. New York, NY. vol. 24, iss. 30. April 10,

2000. p. 47) and (*Fannie Mae Activates Loan Workout System. Mortgage*

Banking. vol. 55, iss. 8. May 1995. p. 7) and these references are considered to

be relevant to the claimed invention due to their reference to online loan workout

systems.Any inquiry concerning this communication or earlier communications

from the examiner should be directed to Jason M. Borlinghaus whose telephone

number is (571) 272-6924. The examiner can normally be reached on 8:30am-

5:00pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, Hyung Sough can be reached on (571) 272-6799. The

fax phone number for the organization where this application or proceeding is

assigned is 703-872-9306.

Information regarding the status of an application may be obtained from

the Patent Application Information Retrieval (PAIR) system. Status information

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PAIR. Status information for unpublished applications is available through

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direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-

free).

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HYUNG SOUGH
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